

Richard A. Hyde, Executive Director  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, TX 78753

RE: No Action Assurance for the Landing Roofs on Gasoline Storage Vessels in  
Texas Related to Hurricane Harvey

Dear Director Hyde:

This letter is in response to the need for a No Action Assurance (NAA) to meet an ongoing fuel shortage caused by the disruption of Hurricane Harvey. Due to infrastructure damages to the refineries and the petroleum distribution network, Texas refineries are unable to operate at full capacities resulting in a gasoline shortage within Texas and potentially causing more widespread gasoline shortages. We understand that statewide there is currently a significant amount of residual gasoline in these storage tanks that cannot be distributed to consumers due to regulatory constraints regarding tank roof landings.

In light of the emergency in Texas, the EPA will exercise its discretion not to pursue enforcement for violations of the New Source Performance Standards (NSPS), Subparts Ka, at 60.112a (a)(1) and (a)(2), and Kb, at 60.112b (a)(1)(i) and (a)(2)(iii). This will allow facilities to land the roofs of the storage tanks and distribute the remaining product to consumers. This NAA is in effect commencing September 1, 2017, and terminates September 8, 2017 at 11:59 PM CDT. EPA reserves the right to revoke or modify the NAA if the EPA believes that such action is necessary to protect public health and the environment. This NAA does not apply to any other federal requirements that may apply to regulated activities at these facilities other than those listed above.

Nothing in this exercise of enforcement discretion relieves any person of the obligation under law, if any, to report emissions from the operation of equipment covered by this action. Pursuant to this NAA, the EPA will not enforce violations of the NSPS and applicable to these facilities in Texas, subject to the following conditions:

1. The owner/operator notifies EPA within 48 hours of each instance of roof landing pursuant to this NAA (by email as provided below);
2. Owners/operators make best efforts to minimize roof landings;

3. Owners/operators exercise good air pollution control practices as required by any and all applicable standards;
4. Owners/operators minimize, to the greatest extent practicable, roof landings near residential areas; and
5. Owners/operators comply with all conditions imposed by State or local authorities on these emergency operations.

EPA reserves the right to amend or revoke this NAA at any time.

The notifications identified above should be sent via email to Steve Thompson, at Thompson.steve@epa.gov.

The issuance of an NAA for this period of time is in the public interest. Through today's NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by Hurricane Harvey. Nothing in this NAA is intended to over-ride Texas state or local authorities.

If you have any questions please contact Phillip A. Brooks, at 202-564-0652 or brooks.phillip@epa.gov.

Sincerely,

Lawrence Starfield  
Acting Assistant Administrator

cc: Samuel Coleman, P.E. Acting Regional Administrator, EPA Region 6

This letter is in response to the need for a No Action Assurance (NAA) relating to the draw-down of gasoline storage tanks at refineries and fuel terminals resulting in "landing" floating roofs on internal tank support structures in the State of Texas. Due to acute fuel shortages in certain areas of Texas from the effects of Hurricane Harvey, including the loss of power, closure of refineries, shutdown of fuel pipelines, and surface road fuel transportation difficulties, an NAA is needed to allow withdrawal of gasoline from large floating roof storage tanks in a manner that may cause the floating roof to rest upon internal structures of the tank in a manner that is not authorized by the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) and the Texas State Implementation Plan (SIP). *See* 40 C.F.R. Part and 30 Tex. Admin. Code sections \_\_\_\_ . The need for this request is to address severe fuel shortages that have resulted from damage caused by Hurricane Harvey to the fuel distribution systems in Texas and Louisiana.

